

COUNTY OF YORK

MEMORANDUM

DATE: May 24, 2000 (BOS Mtg. 06/20/00)

TO: York County Board of Supervisors

FROM: James E. Barnett, County Attorney

SUBJECT: Proposed revision to County Meals Tax Ordinance

Legislation adopted by both the 1999 and 2000 General Assemblies requires modification to the County's meal tax ordinance. In 1999, the General Assembly adopted HB 1601 which amended § 58.1-3833, the statute which authorizes counties to adopt a food and beverage tax, to indicate that the tax could not be levied on "food" as defined in the Federal Food Stamp Act of 1977. That definition would have excluded from County taxation all food or food products sold for home consumption. That amendment was not to become effective until July 1, 2000. Because that statutory amendment represented a significant decrease in local government tax revenues, local governments urged the 2000 General Assembly to modify that language, and so the 2000 General Assembly adopted HB 255 which states that despite the exemption for food as defined in the Food Stamp Act, local governments may levy a meals tax on sandwiches, salad bar items sold from a salad bar, prepackaged single serving salads, and non-factory sealed beverages. However, the tax may no longer be assessed against alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption. HB 255 also modified the extent to which the tax may be assessed against prepared foods sold by grocery stores and convenience stores at delicatessen counters. The attached draft revision to the County's ordinance incorporates those changes.

The revision also includes some minor changes to § 21-163 of the County's ordinance, which sets out a number of exemptions from the meals tax. Those modifications are prompted in part by the actions of the General Assembly and in part to make the County's ordinance more consistent with the model county meals tax ordinance produced recently by the Virginia Municipal League. I have not proposed that the County jettison its own existing ordinance wholesale in order to adopt the model ordinance, but thought it advisable that the language of the County's ordinance parallel the text of the model ordinance wherever it seemed practicable to do so.

A number of cities in the Hampton Roads area have either already adopted or plan to adopt the VML model ordinance for cities. However, the state code meals tax provisions for counties differ slightly from the statutes applicable to cities, therefore, York County cannot simply adopt an ordinance identical to those of Hampton and Newport News, for example,

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in order to promote tax uniformity throughout the Peninsula. A quick survey of counties in Virginia indicates that most counties appear to be using the VML model county ordinance as a resource rather than adopting it word for word. Consequently, I decided to do the same and to recommend revisions to the County's ordinance only to the extent necessary to bring it in conformance with new legislation.

I recommend adoption of Ord. No. 00-9.

Barnett/3340:swb

Attachment